



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

BILLY RAY BARKER,

Plaintiff,

v.

Civil Action No. **3:07CV490**

UNITED STATES, *et al.*,

Defendants.

MEMORANDUM OPINION

By Memorandum Order entered on September 18, 2007, the Court conditionally docketed Plaintiff's action. At that time, the Court directed Plaintiff to submit a statement under oath or penalty of perjury that:

- (A) Identifies the nature of the action;
- (B) States his belief that he is entitled to relief;
- (C) Avers that he is unable to prepay fees or give security therefor; and,
- (D) Includes a statement of the assets he possesses, which must include the current balance in his inmate hold account.

See 28 U.S.C. § 1915(a)(1). The Court provided Plaintiff with an *in forma pauperis* affidavit form for this purpose.

Additionally, the Court directed Plaintiff to affirm his intention to pay the full filing fee by signing and returning a consent to the collection of fees form. The Court warned Plaintiff that a failure to comply with either of the above directives within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.

Plaintiff has not complied with the orders of this Court. Plaintiff failed to return a completed *in forma pauperis* affidavit form and a consent to collection of fees form. As a result, he does not qualify for *in forma pauperis* status. Furthermore, he has not paid the statutory filing

fee for the instant complaint. *See* 28 U.S.C. § 1914(a). Such actions demonstrate a wilful failure to prosecute. *See* Fed. R. Civ. P. 41(b). Accordingly, this action will be DISMISSED WITHOUT PREJUDICE.

It is so ORDERED.

Date: 10-29-07
Richmond, Virginia

/s/
James R. Spencer
Chief United States District Judge